

### REMARKS

Claims 1 to 12, 15 to 23, 25, and 85 are pending in this application. Claims 4 to 7 stand withdrawn and claims 13, 14, 24, and 26 to 84 were previously canceled. Claim 1 has been amended to recite a biocompatible film comprising two or more films of polymer or copolymer. Support for the amendment can be found throughout the specification and claims as originally filed, *e.g.*, at page 7, lines 2 to 27. Claim 15 has been amended for added clarity. The amendments add no new matter to the application.

#### Rejections under 35 U.S.C. § 103(a)

1. Claims 1-3, 8-10, 12, 15-23, 25, and 85 were rejected as allegedly unpatentable over Pacetti *et al.* (U.S. Patent No. 6,355,058; "Pacetti") in view of Mano *et al.* (U.S. Patent No. 4,306,318, Reissue No. 31,618; "Mano"). Applicant traverses for the reasons discussed below.

Pacetti describes a stent configuration wherein particles of radiopaque material contained within a polymeric binder are coated onto a stent core structure (*see* Abstract). The Office appears to construe Pacetti's radiopaque coating as equivalent to applicant's film of polymer or copolymer. As discussed in the previous Reply and as conceded by the Office, Pacetti does not describe a polymer or copolymer having biaxially oriented chains. According to the Office, "Pacetti *et al.* remains silent (states "codrawn" but doesn't specifically mention extruding) as to the polymer or copolymer having biaxially oriented chains" (Office Action at pages 2 and 3).

In an attempt to remedy the deficiencies of Pacetti, the Office cites Mano. Mano describes a prosthesis comprising a porous tubing of polytetrafluoroethylene (*see* Abstract), but the Office cites Mano as allegedly teaching "another non-woven soft tissue implant which is extruded and stretched to form a biaxially oriented tube (col 3, line 1-25) for the purpose of strengthening the tube" (Office Action at page 3). However, the Office Action fails to describe how one of skill in the art would combine Pacetti's stent, which includes a central core and a radiopaque coating (*see* Pacetti at 5:18-20; and Figure 2), with the disclosure of Mano. The Office acknowledges that Pacetti's coating is a biocompatible film, but turns to Mano in an

attempt to provide a polymer or copolymer having biaxially oriented chains when, in fact, Mano describes a porous tube. The Office fails to describe how or why one would substitute the radiopaque coating of Pacetti for the porous tube of Mano. Further, no skilled practitioner, reading Pacetti, would attempt to use Mano to extrude or stretch the radiopaque coating on Pacetti's stent. The teachings of Mano appear to be simply physically incompatible with the teachings of Pacetti. It appears that extruding or stretching Pacetti's radiopaque coating or completely replacing Pacetti's coating with the tube of Mano would render Pacetti's stent useless, *i.e.*, it would destroy the purpose of Pacetti. Further, applicant submits that even if a skilled practitioner were to combine Pacetti and Mano (and nothing of record suggests that a skilled practitioner would be motivated to do so), the claimed non-woven soft tissue implants with low surface areas still would not have been obtained.

Further, for reasons unrelated to the present rejection, applicant has amended claim 1 to recite a biocompatible film comprising two or more films of polymer or copolymer. Pacetti and Mano do not teach or even suggest a biocompatible film comprising two or more films of polymer or copolymer, as recited in amended claim 1. Thus, for at least the above reasons, claim 1 and all its dependents are nonobvious in view of Pacetti and Mano. Accordingly, applicant respectfully requests that the present rejection be reconsidered and withdrawn.

2. Claim 11 was rejected as allegedly unpatentable over Pacetti in view of Mano as applied to claim 9 above and further in view of Wulfinan *et al.* (U.S. Publication No. 2003/0139802; "Wulfinan").

Applicant respectfully traverses. As discussed above, applicant disagrees that Pacetti and Mano render claim 1 or its dependents obvious. The Office has not established that Pacetti and Mano teach or suggest a non-woven soft tissue implant as recited in claim 1, even before the present amendment of claim 1. Wulfinan does not cure the deficiencies of Pacetti and Mano, and indeed is cited only for its disclosure of cells less than 100 microns in size. Since claim 1 is not obvious, any claim that depends from claim 1, including claim 11, is not obvious. Withdrawal of the rejection is respectfully requested.

Thus, applicant respectfully submits that the Office has not established a *prima facie* case of obviousness against the presently claimed non-woven soft tissue implants. No skilled practitioner would have found any reason in Pacetti, Mano, and Wulfman, or anything else in the art, to modify the stent described in Pacetti in an attempt to arrive at applicant's claimed non-woven soft tissue implants. Even if a skilled practitioner were to combine these references, the claimed implants still would not have been obtained because the references do not teach or suggest all recited elements, particularly a biocompatible film comprising two or more films of polymer or copolymer, the polymer or copolymer having biaxially oriented chains. Applicant therefore respectfully submits that the Office has failed to establish a *prima facie* case of obviousness against the claims and requests that this rejection be reconsidered and withdrawn.

#### CONCLUSION

Applicant submits that the pending claims are allowable and request early and favorable action thereon. Applicant does not concede any positions of the Office that are not expressed above, nor does applicant concede that there are not other good reasons for patentability of the presented claims or other claims.

The fee in the amount of \$555 for the Petition for Three-Month Extension of Time is being paid on the electronic filing system by way of deposit account authorization. Apply any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 14188-0002001.

Respectfully submitted,

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